

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PAUL C. WARD

§

VS.

§

CIVIL ACTION NO. 2:09cv305

HARRISON COUNTY JAIL and
SERGEANT FNU SLADE

§

ORDER OF DISMISSAL

Plaintiff Paul C. Ward, formerly confined in the Harrison County Jail, and proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge Charles Everingham IV, who issued a Report and Recommendation recommending that the complaint be dismissed with prejudice as frivolous pursuant to 28 U.S.C. § 1915A(b)(1).

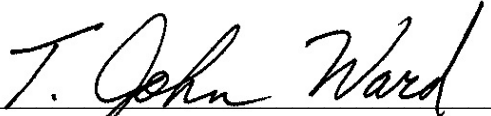
Plaintiff filed a brief response, which the Court construes as an objection. However, instead of addressing the substance of the Report and Recommendation, Plaintiff's objections only express concern over the recommended dismissal because he asserts he has "proof and evidence that [his] suit was and is very much valid." Objections at 1. He also inquires about the meaning of dismissal with prejudice versus without prejudice and expresses the intent of re-filing his lawsuit. However, a re-filing of this claim would be without merit because a dismissal with prejudice means that the federal claims upon which a Court's jurisdiction is based complaint are extinguished. *Fry v. Love*, 2010 WL 1236887, at *1 (N. D. Miss. Feb. 22, 2010).

The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Plaintiff to the Report, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and that the objections of

Plaintiff are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that Plaintiff's complaint is **DISMISSED WITH PREJUDICE** as frivolous pursuant to 28 U.S.C. § 1915A(b)(1). All motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 29th day of September, 2011.



T. JOHN WARD
UNITED STATES DISTRICT JUDGE